

STATE OF MICHIGAN
COURT OF APPEALS

MARY L. PREMO, LAWRENCE S. VIHTELIC,
and LILLIAN VIHTELIC,

UNPUBLISHED
June 14, 2007

Plaintiffs-Appellees,

v

No. 271079
Muskegon Circuit Court
LC No. 05-043842-CH

FRUITLAND TOWNSHIP,

Defendant-Appellant.

Before: Fitzgerald, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM.

Defendant appeals as of right the summary disposition order entered for plaintiffs on May 10, 2006. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiffs sought to quiet title in a road end located in Fruitland Township. Defendant sought to have title quieted in the same road end, claiming the disputed parcel was a public highway. The trial court granted summary disposition to plaintiffs and ultimately entered a judgment quieting title in their favor.

Defendant first argues that the trial court erred by concluding defendant could not claim the disputed property under the highway by user statute, MCL 221.20. This Court reviews a trial court's decision on a motion for summary disposition under MCR 2.116(C)(10) de novo, and, on review, must consider the pleadings, depositions, admissions and other documentary evidence in the light most favorable to the nonmoving party. *Morris & Doherty, PC v Lockwood*, 259 Mich App 38, 41-42; 672 NW2d 884 (2003). In addition, a trial court's decision as to whether the legal requirements have been met for establishing a highway by user is reviewed de novo. *Cimock v Conklin*, 233 Mich App 79, 84; 592 NW2d 401 (1998).

While a township may file suit to have the property declared a highway by user, it is required to follow the procedures set out in MCL 221.20a. In this case, defendant admits that it did not comply with these requirements. For this reason, summary disposition in favor of plaintiffs was appropriate. Regardless, defendant alleges that under MCL 224.18(3) and MCL 224.18(5), the Muskegon County Road Commission (MCRC) had authority to file suit to have the property declared a highway by user, and because the MCRC transferred its right to file suit to defendant via a quitclaim deed, summary disposition was improper. We disagree. There is no

section of MCL 224.18, that authorizes road commissions to claim property as highways by user. Therefore, the MCRC could not have transferred its right to have the disputed property declared a highway by user via the quitclaim deed issued to defendant because it did not have such a right to transfer. The trial court properly granted summary disposition to plaintiffs where defendant did not follow the appropriate procedure to quiet title in its name.

Defendant also argues that the court erred by refusing to add the MCRC to the lawsuit as a necessary party. A trial court's decision to add or drop a party to an action is reviewed for an abuse of discretion. *Hofmann v Auto Club Ins Ass'n*, 211 Mich App 55, 95; 535 NW2d 529 (1995). Under MCR 2.205(A), joinder is required of all parties “having such interests in the subject matter of an action that their presence in the action is essential to permit the court to render complete relief.” Defendant argues that the MCRC is a necessary party. We disagree. The MCRC explicitly disavowed having any interest in the property. Because the MCRC has no interest in the subject matter, it is inconceivable that adding it as a party is essential to facilitate complete relief. The trial court did not abuse its discretion by denying joinder.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ David H. Sawyer
/s/ Peter D. O’Connell